

**Executive Summary – Enforcement Matter – Case No. 49673**

**City of Poth**

**RN101610053**

**Docket No. 2014-1727-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Poth WWTS, located one mile due south of the intersection of U.S. Highway 181 and Farm-to-Market Road 541, Wilson County

**Type of Operation:**

Wastewater treatment system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** January 22, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$9,425

**Amount Deferred for Expedited Settlement:** \$1,885

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$7,540

Name of SEP: Wastewater Treatment Facility Repairs (Compliance)

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** July 16, 2014

**Date(s) of NOE(s):** October 31, 2014

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**City of Poth**

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**Docket No. 2014-1727-MWD-E**

***Violation Information***

1. Failed to ensure that the Facility and all of its systems of collection, treatment and disposal are properly operated and maintained. Specifically, the Imhoff tank contained vegetation growth, sludge, and rag build up; the slow sand filter beds were clogged; and pivot no. 2 had been out of operation since September 2013 [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TCEQ Permit No. WQ0010052001, Operational Requirements No. 1 and Special Provisions No. 5].
2. Failed to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state. Specifically, wastewater was leaking from cracks along the walls of the slow sand filter beds allowing the discharge of untreated wastewater to the ground and pivot no. 1 was leaking causing ponding [30 TEX. ADMIN. CODE § 305.125(1) and (5), TEX. WATER CODE § 26.121(a)(1), and TCEQ Permit No. WQ0010052001, Operational Requirements No. 1 and Permit Conditions No. 2.g.].
3. Failed to report any noncompliance which may endanger human health or safety, or the environment to the TCEQ within 24 hours of becoming aware of the noncompliance and provide a written submission within five days of becoming aware of the noncompliance. Specifically, the unauthorized discharge of untreated wastewater from the cracks along the walls of the slow sand filter beds was not reported [30 TEX. ADMIN. CODE § 305.125 (1) and (9)(A), TEX. WATER CODE 26.39(b) and TCEQ Permit No. WQ0010052001, Monitoring Requirements Nos. 7.a. and 7.b.].
4. Failed to give notice to the Executive Director and receive approval prior to making physical alterations or additions to the permitted Facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Specifically, 3-inch polyvinyl chloride pipes were installed along the inside walls of each slow sand filter bed to allow influent to drain to the bottom of the filtering beds instead of filtering through the sand filter beds [30 TEX. ADMIN. CODE § 305.125(1) and (7) and TCEQ Permit No. WQ0010052001, Permit Conditions No. 2.e.].
5. Failed to collect effluent samples and flow measurements following the final treatment unit and prior to storage of the treated effluent. Specifically, 5-day biochemical oxygen demand and pH samples were being collected between holding pond nos. 2 and 3 instead of after the stabilization pond (final treatment unit). Additionally, flow measurements were being recorded at the headworks instead of being recorded after final treatment [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(11)(A), and 319.5(a), and TCEQ Permit No. WQ0010052001, Monitoring Requirements B].

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6. Failed to ensure measurements, tests, and calculations are accurately accomplished. Specifically, pH calibration was not being performed for each day that samples were analyzed, pH buffers had not been purchased and calibration logs were not being maintained [30 TEX. ADMIN. CODE § 319.9(d) and TCEQ Permit No. WQ0010052001, Monitoring Requirements No. 2.a.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. On November 24, 2014, submitted documentation demonstrating that pH calibration logs are being maintained and that pH buffers have been purchased;
- b. On December 4, 2014, ceased the unauthorized discharge from the slow sand filter drying beds by taking six slow sand filter drying beds out-of-service;
- c. On December 4, 2014, submitted documentation showing that vegetation growth, sludge and rag build-up was removed from the Imhoff tank, began performing daily cleaning of the tank and trained employees of the proper maintenance of the Imhoff tank. In addition, the gasket for pivot no. 1 was replaced; and
- d. On February 27, 2015, the TCEQ received an administratively complete permit renewal application.

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
  - a. Within 30 days:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that:
      1. All reporting requirements are properly accomplished, including the timely submittal of noncompliance notifications; and
      2. The Executive Director is notified prior to making physical alterations or additions to the permitted Facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements.

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**City of Poth**  
**RN101610053**  
**Docket No. 2014-1727-MWD-E**

- ii. Begin monitoring effluent samples and recording flow measurements after the final treatment unit and prior to storage of the treated effluent.
- b. Within 45 days, submit written certification of compliance with a.
- c. Within 60 days, repair pivot no. 2.
- d. Within 75 days, submit written certification of compliance with c.
- e. Within 180 days:
  - i. Repair the cracks along the walls of the six slow sand filter beds that were taken out-of-service and ensure that the sand filter beds are not leaking wastewater when placed back into an operational status; and
  - ii. Remove the polyvinyl chloride pipes within the sand media beds.
- f. Within 195 days, submit written certification of compliance with e.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548  
**TCEQ SEP Coordinator:** Meaghan Bailey, SEP Coordinator, Litigation Division, MC 175, (512) 239-0205  
**Respondent:** The Honorable Anthony Smolka, Mayor, City of Poth, P.O. Box 579, Poth, Texas 78147  
**Respondent's Attorney:** N/A

**Attachment A**  
**Docket Number: 2014-1727-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Poth
<b>Penalty Amount:</b>	Seven Thousand Five Hundred Forty Dollars (\$7,540)
<b>SEP Offset Amount:</b>	Seven Thousand Five Hundred Forty Dollars (\$7,540)
<b>Type of SEP:</b>	Compliance SEP
<b>Project Name:</b>	<i>Wastewater Treatment Facility Repairs</i>
<b>Location of SEP:</b>	Wilson County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at Respondent's wastewater treatment facility. Respondent shall empty and remove any rock and/or sand from the Imhoff tank; repair the slow sand filter beds; repair the cracks in the walls of the beds; clean existing rock and sand; remove the 3-inch PVC pipe from the slow sand filter beds; clean the perimeter walls; resurface the interior side of the exterior wall; add Crystalline waterproofing; seal all walls; reinforce walls; replace sand; replace rock; replace filter fabric between rock and sand; and replace filter pipe at the bottom of the beds. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: emptying and removing any rock and/or sand from the Imhoff tank; repairing the slow sand filter beds; repairing the cracks in the walls of the beds; cleaning existing rock and sand; removing the 3-inch PVC pipe from the slow sand filter beds; cleaning the perimeter walls; resurfacing the interior side of the exterior wall; adding Crystalline waterproofing; sealing all walls; reinforcing walls; replacing sand; replacing rock; replacing filter fabric between rock and sand; and replacing filter pipe at the bottom of the beds (the "Project"). Respondent shall solicit bids from qualified contractors to make repairs at the facility. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity.

The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C, Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent is performing the Compliance SEP solely as part of the terms of settlement in this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

**C. Minimum Expenditure**

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

**Estimated Cost Schedule**

<b>Item</b>	<b>Quantity</b>	<b>Cost</b>	<b>Units</b>	<b>Total</b>
Clean perimeter walls	1	\$8,000	Each	\$8,000
Repair existing cracks in walls	1	\$6,600	Each	\$6,600
Resurface interior side of exterior wall	1	\$8,700	Each	\$8,700
Crystalline waterproofing	1	\$4,200	Each	\$4,200
Clean out existing rock and sand	1	\$10,000	Each	\$10,000
Seal walls	1	\$7,000	Each	\$7,000
Structural steel reinforcement for walls	1	\$4,500	Each	\$4,500

Item	Quantity	Cost	Units	Total
Replace sand	180	\$30	Tons	\$5,500
Replace rock	360	\$25	Tons	\$9,000
Filter fabric between rock and sand	1	\$1,000	Each	\$1,000
Filter pipe at the bottom of the beds	1	\$1,500	Each	\$1,500
Installation of steel, rock, sand, pipe, and fabric	1	\$5,000	Each	\$5,000
<b>Total</b>				<b>\$71,000</b>

## 2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 195 days after the effective date of this Agreed Order.

## 3. Records and Reporting

### A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 195-day time-frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
195	Notice of SEP completion

**B. Final Report**

Within 195 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Proof of publication of invitation for bids (publication must include the enforcement statement, as stated in Section 6, Publicity, below;
4. Dated photographs of the purchased materials, supplies, and equipment; before and of work being performed during the rehabilitation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
6. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
7. Any additional information demonstrating compliance with this Attachment A.

**C. Address**

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

**5. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.



In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **6. Publicity**

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **7. Recognition**

Respondent may not seek recognition for this project in any other state or federal regulatory program.

#### **8. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



<b>DATES</b>	Assigned	3-Nov-2014	Screening	17-Nov-2014	EPA Due	
	PCW	6-Aug-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Poth		
Reg. Ent. Ref. No.	RN101610053		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	49673	No. of Violations	6
Docket No.	2014-1727-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum		\$0	Maximum
			\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,750
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**  
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	-\$1,075
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Notes	Reduction for High Performer Classification.
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Culpability	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$250
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Economic Benefit	0.0% Enhancement*	<b>Subtotal 6</b>	\$0				
<table style="width: 100%;"> <tr> <td style="width: 50%;">Total EB Amounts</td> <td style="width: 50%; text-align: right;">\$17,239</td> </tr> <tr> <td>Estimated Cost of Compliance</td> <td style="text-align: right;">\$130,556</td> </tr> </table>	Total EB Amounts	\$17,239	Estimated Cost of Compliance	\$130,556	*Capped at the Total EB \$ Amount		
Total EB Amounts	\$17,239						
Estimated Cost of Compliance	\$130,556						

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$9,425
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			

Notes	
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<b>Final Penalty Amount</b>	\$9,425
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$9,425
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$1,885
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>				

Notes	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$7,540
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Screening Date 17-Nov-2014

Docket No. 2014-1727-MWD-E

PCW

Respondent City of Poth

Policy Revision 4 (April 2014)

Case ID No. 49673

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101610053

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Reduction for High Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) -10%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% -10%

Screening Date 17-Nov-2014

Docket No. 2014-1727-MWD-E

PCW

Respondent City of Poth

Policy Revision 4 (April 2014)

Case ID No. 49673

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101610053

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (5), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010052001, Operational Requirements No. 1 and Special Provisions No. 5

Violation Description

Failed to ensure that the Facility and all of its systems of collection, treatment and disposal are properly operated and maintained, as documented during an investigation conducted on July 16, 2014. Specifically, the Imhoff tank contained vegetation growth, sludge, and rag build up; the slow sand filter beds were clogged; and pivot no. 2 had been out of operation since September 2013.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 2

124 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from July 16, 2014 (date of investigation) to November 17, 2014 (screening date).

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$6,723

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

# Economic Benefit Worksheet

Respondent City of Poth  
Case ID No. 49673  
Reg. Ent. Reference No. RN101610053  
Media Water Quality  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$55,000	16-Jul-2014	12-Apr-2016	1.74	\$319	\$6,389	\$6,708
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	16-Jul-2014	4-Dec-2014	0.39	\$5	n/a	\$5
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	16-Jul-2014	4-Dec-2014	0.39	\$10	n/a	\$10

Notes for DELAYED costs

Other cost is the estimated cost to remove vegetation growth, sludge and rag build-up from the Imhoff tank, and begin daily cleaning of the tank. Training cost is the estimated cost to provide proper training of the maintenance of the Imhoff tank. The Engineering/Construction cost is the estimated cost to repair pivot no. 2. Date required is the investigation date. Final dates are the compliance dates and estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$55,750

TOTAL

\$6,723

Screening Date 17-Nov-2014

Docket No. 2014-1727-MWD-E

PCW

Respondent City of Poth

Policy Revision 4 (April 2014)

Case ID No. 49673

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101610053

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (5), Tex. Water Code § 26.121(a)(1), and TCEQ Permit No. WQ0010052001, Operational Requirements No. 1 and Permit Conditions No. 2.g.

Violation Description

Failed to prevent an unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on July 16, 2014. Specifically, wastewater was leaking from cracks along the walls of the slow sand filter beds allowing the discharge of untreated wastewater to the ground and pivot no. 1 was leaking causing ponding.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 2

124 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from July 16, 2014 (date of Investigation) to November 17, 2014 (screening date).

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$9,888

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

# Economic Benefit Worksheet

Respondent City of Poth  
Case ID No. 49673  
Reg. Ent. Reference No. RN101610053  
Media Water Quality  
Violation No. 2

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment	\$106	16-Jul-2014	4-Dec-2014	0.39	\$0	\$3	\$3
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$71,000	16-Jul-2014	11-Jul-2016	1.99	\$471	\$9,415	\$9,886
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The equipment cost is the actual cost to remove and replace the lip gasket for pivot No. 1 and taking six slow sand filter drying beds out-of-service. Date required is the investigation date. Final date is the date the corrective action was completed. The engineering/construction cost is the estimated cost to repair the cracks along the walls of the slow sand filter beds to prevent the discharge of wastewater. Date required is the investigation date. Final date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$71,106

TOTAL

\$9,888



Screening Date 17-Nov-2014

Docket No. 2014-1727-MWD-E

PCW

Respondent City of Poth

Policy Revision 4 (April 2014)

Case ID No. 49673

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101610053

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (9)(A), Tex. Water Code § 26.039(b) and TCEQ Permit No. WQ0010052001, Monitoring Requirements Nos. 7.a. and 7.b.

Violation Description

Failed to report any noncompliance which may endanger human health or safety, or the environment to the TCEQ within 24 hours of becoming aware of the noncompliance and provide a written submission within five days of becoming aware of the noncompliance, as documented during an investigation conducted on July 16, 2014. Specifically, the unauthorized discharge of untreated wastewater from the cracks along the walls of the sand filter beds was not reported.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

124

Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,250

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$1,125

This violation Final Assessed Penalty (adjusted for limits) \$1,125

# Economic Benefit Worksheet

Respondent City of Poth  
Case ID No. 49673  
Reg. Ent. Reference No. RN101610053  
Media Water Quality  
Violation No. 3

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	16-Jul-2014	13-Mar-2016	1.66	\$21	n/a	\$21
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that the reporting requirements are properly accomplished for the timely submittal of noncompliance notifications. Date required is the investigation date. Final date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	17-Jul-2014	21-Jul-2014	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for failing to submit noncompliance notifications to the TCEQ Regional Office and the Enforcement Division within 24 hours and five days after of becoming aware of any noncompliance. Date required is the date the 24-hour notification was due. Final date is the date the written final notification was due.

Approx. Cost of Compliance

\$275

TOTAL

\$46

Screening Date 17-Nov-2014

Docket No. 2014-1727-MWD-E

PCW

Respondent City of Poth

Policy Revision 4 (April 2014)

Case ID No. 49673

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101610053

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (7), and TCEQ Permit No. WQ0010052001, Permit Conditions No. 2.e.

Violation Description

Failed to give notice to the Executive Director and receive approval prior to making physical alterations or additions to the permitted Facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements, as documented during an investigation conducted on July 16, 2014. Specifically, 3-inch polyvinyl chloride ("PVC") pipes were installed along the inside walls of each slow sand filter bed to allow influent to drain to the bottom of the filtering beds instead of filtering through the sand filter beds.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

124 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,250

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer	
	Extraordinary	Ordinary	N/A	(mark with x)
			x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$294

Violation Final Penalty Total \$1,125

This violation Final Assessed Penalty (adjusted for limits) \$1,125

# Economic Benefit Worksheet

Respondent City of Poth  
Case ID No. 49673  
Reg. Ent. Reference No. RN101610053  
Media Water Quality  
Violation No. 4

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	16-Jul-2014	13-Mar-2016	1.66	\$21	n/a	\$21
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,500	16-Jul-2014	11-Jul-2016	1.99	\$249	n/a	\$249

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that proper notice is given prior to making physical alterations or additions to the facility if such alterations or additions would require a permit amendment or result in a violation. Date required is the investigation date. Final date is the estimated date of compliance. Other delayed cost is the estimated cost to remove the PVC pipes within the sand media beds so that the influent does not bypass the filtering media and/or does not direct the influent into the holding ponds without proper treatment. Date required is the investigation date. Final date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	11-Jul-2014	16-Jul-2014	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide notice to the Executive Director prior to making physical additions to the Facility. Date required is 5 days prior to the investigation date. Final date is the investigation date.

Approx. Cost of Compliance

\$2,775

TOTAL

\$294

Screening Date 17-Nov-2014

Docket No. 2014-1727-MWD-E

PCW

Respondent City of Poth

Policy Revision 4 (April 2014)

Case ID No. 49673

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101610053

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1), 305.125(11)(A), and 319.5(a), and TCEQ Permit No. WQ0010052001, Monitoring Requirements B

Violation Description

Failed to collect effluent samples and flow measurements immediately following the final treatment unit and prior to storage of the treated effluent, as documented during an investigation conducted on July 16, 2014. Specifically, 5-day biochemical oxygen demand and pH samples were being collected between holding pond nos. 2 and 3 instead of after the stabilization pond (final treatment unit). Additionally, flow measurements were being recorded at the headworks instead of being recorded after final treatment.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			X

Percent 3.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

## Violation Events

Number of Violation Events 1

124 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$750

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$675

This violation Final Assessed Penalty (adjusted for limits) \$675

# Economic Benefit Worksheet

Respondent City of Poth  
Case ID No. 49673  
Reg. Ent. Reference No. RN101610053  
Media Water Quality  
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	16-Jul-2014	13-Mar-2016	1.66	\$8	n/a	\$8
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to collect effluent samples and record flow measurements after the final treatment unit.  
Date required is the investigation date. Final date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$8

Screening Date 17-Nov-2014

Docket No. 2014-1727-MWD-E

PCW

Respondent City of Poth

Policy Revision 4 (April 2014)

Case ID No. 49673

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101610053

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 319.9(d) and TCEQ Permit No. WQ0010052001, Monitoring Requirements No. 2.a.

Violation Description

Failed to ensure measurements, tests, and calculations are accurately accomplished, as documented during an investigation conducted on July 16, 2014. Specifically, pH calibration was not being performed each day that samples were analyzed, pH buffers had not been purchased and calibration logs were not being maintained.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 2

124 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from July 16, 2014 (date of investigation) to November 17, 2014 (screening date).

## Good Faith Efforts to Comply

10.0%

Reduction \$250

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent returned compliance on November 24, 2014.

Violation Subtotal \$2,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$279

Violation Final Penalty Total \$2,000

This violation Final Assessed Penalty (adjusted for limits) \$2,000

# Economic Benefit Worksheet

Respondent City of Poth  
Case ID No. 49673  
Reg. Ent. Reference No. RN101610053  
Media Water Quality  
Violation No. 6

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$300	16-Jul-2014	24-Nov-2014	0.36	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to begin calibrating the pH meter at the required frequency, document each calibration in a calibration log, and purchase pH buffer solutions. Date required is the investigation date. Final date is the date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Avoided Costs		ANNUAL [1]					
	Disposal			0.00	\$0	\$0	\$0
	Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
	Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$250	16-Jul-2013	16-Jul-2014	1.92	\$24	\$250	\$274
	Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to calibrate the pH meter. Date required is one year preceding the investigation date. Final date is the investigation date.

Approx. Cost of Compliance

\$550

TOTAL

\$279



The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600664882, RN101610053, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN600664882, City of Poth

**Classification:** HIGH

**Rating:** 0.00

**Regulated Entity:** RN101610053, CITY OF POTH

**Classification:** HIGH

**Rating:** 0.00

**Complexity Points:** 5

**Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** Located 1 mile due south of the intersection of United States Highway 181 and Farm-to-Market Road 541 in Wilson County, Texas

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**

**WASTEWATER PERMIT** WQ0010052001

**WASTEWATER AUTHORIZATION** R10052001

**WASTEWATER LICENSING LICENSE** WQ0010052001

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** June 01, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 01, 2010 to June 01, 2015

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Cheryl Thompson

**Phone:** (817) 588-5886

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF POTH  
RN101610053**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2014-1727-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Poth ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment system located one mile due south of the intersection of United States Highway 181 and Farm-to-Market Road 541 in Wilson County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on November 3, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Nine Thousand Four Hundred Twenty-Five Dollars (\$9,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Eight Hundred Eighty-Five Dollars (\$1,885) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Seven Thousand Five Hundred Forty Dollars (\$7,540) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. On November 24, 2014, submitted documentation demonstrating that pH calibration logs are being maintained and that pH buffers have been purchased.
  - b. On December 4, 2014, ceased the unauthorized discharge from the slow sand filter drying beds by taking six slow sand filter drying beds out-of-service.
  - c. On December 4, 2014, submitted documentation showing that vegetation growth, sludge and rag build-up was removed from the Imhoff tank, began performing daily cleaning of the tank and trained employees of the proper maintenance of the Imhoff tank. In addition, the gasket for pivot no. 1 was replaced.
  - d. On February 27, 2015, the TCEQ received an administratively complete permit renewal application.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to ensure that the Facility and all of its systems of collection, treatment and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TCEQ Permit No. WQ0010052001, Operational Requirements No. 1 and Special Provisions No. 5, as documented during an investigation conducted on July 16, 2014. Specifically, the Imhoff tank contained vegetation growth, sludge, and rag build up; the slow sand filter beds were clogged, and pivot no. 2 had been out of operation since September 2013.
2. Failed to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5); TEX. WATER CODE § 26.121(a)(1), and TCEQ Permit No. WQ0010052001, Operational Requirements No. 1, and Permit Conditions No. 2.g., as documented during an investigation conducted on July 16, 2014. Specifically, wastewater was leaking from cracks along the walls of the slow sand filter beds allowing the discharge of untreated wastewater to the ground and pivot no. 1 was leaking causing ponding.
3. Failed to report any noncompliance which may endanger human health or safety, or the environment to the TCEQ within 24 hours of becoming aware of the noncompliance and provide a written submission within five days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125 (1) and (9)(A), and TEX. WATER CODE 26.39(b) and TCEQ Permit No. WQ0010052001, Monitoring Requirements Nos. 7.a. and 7.b., as documented during an investigation conducted on July 16, 2014. Specifically, the unauthorized discharge of untreated wastewater from the cracks along the walls of the slow sand filter beds was not reported.
4. Failed to give notice to the Executive Director and receive approval prior to making physical alterations or additions to the permitted Facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (7), and TCEQ Permit No. WQ0010052001, Permit Conditions No. 2.e, as documented during an investigation conducted on July 16, 2014. Specifically, 3-inch polyvinyl chloride ("PVC") pipes were installed along the inside walls of each slow sand filter bed to allow influent to drain to the bottom of the filtering beds instead of filtering through the sand filter beds.
5. Failed to collect effluent samples and flow measurements following the final treatment unit and prior to storage of the treated effluent, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(11)(A), and 319(5)(a), and TCEQ Permit No. WQ0010052001, Monitoring Requirements B, as documented during an investigation conducted on July 16, 2014. Specifically, 5-day biochemical oxygen demand and pH samples were being collected between holding pond nos. 2 and 3 instead of after the stabilization pond (final treatment unit). Additionally, flow measurements were being recorded at the headworks instead of being recorded after final treatment.

6. Failed to ensure measurements, tests, and calculations are accurately accomplished, in violation of 30 TEX. ADMIN. CODE § 319.9(d) and TCEQ Permit No. WQ0010052001, Monitoring Requirements No. 2. a, as documented during an investigation conducted on July 16, 2014. Specifically, pH calibration was not being performed for each day that samples were analyzed, pH buffers had not been purchased and calibration logs were not being maintained.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: the City of Poth, Docket No. 2014-1727-MWD-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Seven Thousand Five Hundred Forty Dollars (\$7,540) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that:
      1. All reporting requirements are properly accomplished, including the timely submittal of noncompliance notifications, in accordance with TCEQ Permit No. WQ0010052001, Monitoring Requirements Nos. 7.a. and 7.b.; and

2. The Executive Director is notified prior to making physical alterations or additions to the permitted Facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements.
- ii. Begin monitoring effluent samples and recording flow measurements after the final treatment unit and prior to storage of the treated effluent, in accordance with TCEQ Permit No. WQ0010052001, Monitoring Requirements B.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions Nos. 3.a.i through 3.a.ii, in accordance with Ordering Provision No. 3.g below.
- c. Within 60 days after the effective date of this Agreed Order, repair pivot no. 2.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.c, in accordance with Ordering Provisions No. 3.g below.
- e. Within 180 days after the effective date of this Agreed Order:
  - i. Repair the cracks along the walls of the six slow sand filter beds that were taken out-of-service and ensure that the sand filter beds are not leaking wastewater when placed back into an operational status; and
  - ii. Remove the PVC pipes within the sand media beds.
- f. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.e.i and 3.e.ii, in accordance with Ordering Provision No. 3.g below.
- g. The written certifications of compliance required by Ordering Provisions Nos. 3.b, 3.d, and 3.f, shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and



accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*Pam Monica Jr*  
For the Executive Director

7/21/16  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Anthony Smolka*  
Signature

10/26/15  
Date

Anthony Smolka  
Name (Printed or typed)  
Authorized Representative of  
City of Poth

Mayor  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

**Attachment A**  
**Docket Number: 2014-1727-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Poth
<b>Penalty Amount:</b>	Seven Thousand Five Hundred Forty Dollars (\$7,540)
<b>SEP Offset Amount:</b>	Seven Thousand Five Hundred Forty Dollars (\$7,540)
<b>Type of SEP:</b>	Compliance SEP
<b>Project Name:</b>	<i>Wastewater Treatment Facility Repairs</i>
<b>Location of SEP:</b>	Wilson County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at Respondent's wastewater treatment facility. Respondent shall empty and remove any rock and/or sand from the Imhoff tank; repair the slow sand filter beds; repair the cracks in the walls of the beds; clean existing rock and sand; remove the 3-inch PVC pipe from the slow sand filter beds; clean the perimeter walls; resurface the interior side of the exterior wall; add Crystalline waterproofing; seal all walls; reinforce walls; replace sand; replace rock; replace filter fabric between rock and sand; and replace filter pipe at the bottom of the beds. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: emptying and removing any rock and/or sand from the Imhoff tank; repairing the slow sand filter beds; repairing the cracks in the walls of the beds; cleaning existing rock and sand; removing the 3-inch PVC pipe from the slow sand filter beds; cleaning the perimeter walls; resurfacing the interior side of the exterior wall; adding Crystalline waterproofing; sealing all walls; reinforcing walls; replacing sand; replacing rock; replacing filter fabric between rock and sand; and replacing filter pipe at the bottom of the beds (the "Project"). Respondent shall solicit bids from qualified contractors to make repairs at the facility. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity.

The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C, Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent is performing the Compliance SEP solely as part of the terms of settlement in this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

**C. Minimum Expenditure**

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

**Estimated Cost Schedule**

<b>Item</b>	<b>Quantity</b>	<b>Cost</b>	<b>Units</b>	<b>Total</b>
Clean perimeter walls	1	\$8,000	Each	\$8,000
Repair existing cracks in walls	1	\$6,600	Each	\$6,600
Resurface interior side of exterior wall	1	\$8,700	Each	\$8,700
Crystalline waterproofing	1	\$4,200	Each	\$4,200
Clean out existing rock and sand	1	\$10,000	Each	\$10,000
Seal walls	1	\$7,000	Each	\$7,000
Structural steel reinforcement for walls	1	\$4,500	Each	\$4,500

Item	Quantity	Cost	Units	Total
Replace sand	180	\$30	Tons	\$5,500
Replace rock	360	\$25	Tons	\$9,000
Filter fabric between rock and sand	1	\$1,000	Each	\$1,000
Filter pipe at the bottom of the beds	1	\$1,500	Each	\$1,500
Installation of steel, rock, sand, pipe, and fabric	1	\$5,000	Each	\$5,000
<b>Total</b>				<b>\$71,000</b>

## 2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 195 days after the effective date of this Agreed Order.

## 3. Records and Reporting

### A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 195-day time-frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
195	Notice of SEP completion

**B. Final Report**

Within 195 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Proof of publication of invitation for bids (publication must include the enforcement statement, as stated in Section 6, Publicity, below;
4. Dated photographs of the purchased materials, supplies, and equipment; before and of work being performed during the rehabilitation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
6. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
7. Any additional information demonstrating compliance with this Attachment A.

**C. Address**

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

**5. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**6. Publicity**

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**7. Recognition**

Respondent may not seek recognition for this project in any other state or federal regulatory program.

**8. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.